

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION, Plaintiff, and RICHARD
RASCHER, Plaintiff-Intervenor,

Case No. 1:17-cv-06753

v.

Judge Valderrama
Magistrate Judge Valdez

S&C ELECTRIC CO.,

Defendant.

MOTION FOR SUBSTITUTION OF PLAINTIFF-INTERVENOR

PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 25(a)

Stephanie S. Rascher, Executor and personal representative of the Estate of Richard Lee Rascher, by and through Plaintiff-Intervenor's attorney, Joette S. Doran, of Joette S. Doran & Associates, P.C., and pursuant to Federal Rule of Civil Procedure 25(a), moves this Court for an Order substituting the Estate of Richard Lee Rascher ("Estate of Rascher") for Richard Rascher ("Rascher") as Plaintiff-Intervenor in this case. In support of this Motion, Plaintiff-Intervenor, states as follows:

1. Rascher intervened as a matter of right pursuant to 42 U.S.C. §2000-5(f) and Federal Rule of Civil Procedure 24 in this action, alleging violations of the Americans with Disabilities Act of 1990, 42 U.S.C.S. §12101 et. seq. and the Age Discrimination in Employment Act of 1967, 29 U.S.C.S. §621 et. seq.
2. After full briefing and hearing on Defendant's Motion for Summary Judgment, Judge

Robert Gettleman denied the Defendant's Motion for Summary Judgment regarding the Americans with Disabilities Act and granted Defendant's motion regarding the ADEA.

3. Pursuant to the Joint Status Report filed on February 18, 2021, the parties are at an impasse regarding settlement negotiations and are awaiting a jury trial date.

4. Plaintiff-Intervenor Richard Rascher died on May 5, 2021.

5. Federal Rule of Civil Procedure 25(a) allows for the substitution of parties due to death. Pursuant to Federal Rule of Civil Procedure 25(a)(1)-*Substitution if Claim is Not Extinguished*. If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made any party or by the decedent's successor or representative.

6. Rascher's claims against S&C are not extinguished by Rascher's death. *Guenther v. Griffin Construction Company, Inc.*, 846 F.3d 979 (8th Cir. 2017) (claims under ADA survive death of the party). *Hall v. AT&T Corp.*, 2008 U.S. Dist. LEXIS 41078 at *3 (S.D. Ill. May 23, 2008) ("[r]emedial claims-those that seek compensation for past wrongs are not extinguished by death of the party.").

7. Pursuant to FRCP 25(a)(1), a motion for substitution may be made within 90 after service of a statement noting the death. Counsel for Rascher and Counsel for Plaintiff EEOC were notified of Rascher's death on May 5, 2021. On May 17, 2021, Counsel for Defendant informed Counsel for Rascher that S&C was aware of Rascher's death. Attached hereto as Exhibit A is Notice of Plaintiff-Intervenor's Death filed with the Court on May 28, 2021. This Motion is made within the timeframes of FRCP 25(a)(1).

8. Stephanie S. Rascher, daughter of Rascher, is the Executor and personal representative of the Estate of Rascher.

9. The EEOC does not oppose this Motion.

WHEREFORE, Plaintiff-Intervenor Richard Rascher respectfully requests that this Court grant Stephanie S. Rascher's Motion for Substitution of Plaintiff-Intervenor pursuant to Federal Rule of Civil Procedure 25(a) and substitute the Estate of Richard Lee Rascher for Richard Rascher as Plaintiff-Intervenor in this action.

Respectfully submitted,

By: /s/ Joette S. Doran

Joette S. Doran (ARDC #6195929)
Joette S. Doran & Associates, P.C.
2300 N. Barrington Rd., Suite 400
Hoffman Estates, IL 60169
(847) 756-0940
joette@joettedoran.com

EXHIBIT A

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S&C ELECTRIC CO.,

Defendant.

NOTICE

DEATH OF PLAINTIFF-INTERVENOR RICHARD RASCHER

Stephanie S. Rascher, Executor and personal representative of the Estate of Richard Lee Rascher, by and through Plaintiff-Intervenor's attorney, Joette S. Doran, of Joette S. Doran & Associates, P.C., hereby notifies this Court and Plaintiff U.S. Equal Employment Opportunity Commission and Defendant S&C Electric Co., that Plaintiff-Intervenor Richard Rascher died on May 5, 2021.

Respectfully submitted,

By: /s/ Joette S. Doran

Joette S. Doran (ARDC #6195929)
Joette S. Doran & Associates, P.C.
2300 N. Barrington Rd., Suite 400
Hoffman Estates, IL 60169
(847) 756-0940
joette@joettedoran.com

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on May 28, 2021, she caused the foregoing document to be electronically filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, using the Court's CM/ECF system, which shall send notification of such filing to all counsel of record.

/s/ Joette S. Doran

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